

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,
Complainant

-v-

HO WAN KWOK, a/k/a “Miles Guo,”
“Miles Kwok,” “Guo Wengui,” “Brother
Seven,” or “The Principal,”

and

KIN MING JE, a/k/a “William Je,”

and

YANPING WANG, a/k/a “Yvette,”

Defendants.

Criminal No.: 23-cr-118 (AT)

**MOTION TO FILE UNDER SEAL
FINANCIAL AND PERSONAL
DATA OF FINANCIAL VICTIMS
SEEKING RETURN OF THEIR
PROPERTY**

Assigned to the Honorable U.S.
District Court Judge Analisa
Torres, Presiding Judge

**MOTION TO FILE UNDER SEAL FINANCIAL AND PERSONAL DATA OF
FINANCIAL VICTIMS SEEKING RETURN OF THEIR PROPERTY**

Urgent Action Requested by April 6, 2025

Claimants, represented by the undersigned Bradford L. Geyer, Esq., of
FormerFedsGroup.Com, respectfully demand the return of funds illegally seized by the U.S.
Government, as authorized by 18 U.S.C. § 3771; 18 U.S.C. § 983(a)(1)(A)(i), the **Bank
Robbery Act (18 U.S.C. § 2113), common law larceny by trick and false pretenses, 21
U.S.C. §§ 853(i) and (n), Rule 41(g), 42 U.S.C. § 10607, Fed. R. Crim. P. 32.2(b), and
principles of unjust enrichment.** These funds were taken from individuals that the U.S.
Government itself identifies as victims but instead of treating them as victims the U.S.
Government has treated them as “marks” to be mugged by the U.S. Government.

In support thereof, undersigned counsel respectfully requests that his now over 6,000 individual clients as individual Members and investors in the Himalaya Exchange be permitted to file their identifying information and financial losses under seal in support of their demands under 18 U.S. Code § 3771 and otherwise for the return of their funds.

The Court might consider the following additional points:

- 1) Under worst-case evaluation, Counsel must file applications for his clients on or before April 7, 2025. Therefore, the Court's Order is requested in time for Counsel and others to file under seal.
- 2) Counsel sees no reason why any clients of other law firms like Peter Katz or independent *pro se* applicants should not also have the same right or available process. Although Counsel can only speak for his own clients, he is not aware of any distinction between his clients and others that would justify any different handling.
- 3) Undersigned Counsel is representing clients of the Himalaya Exchange, some of whom also made separate investments in other entities related to the inspiration of Michael Guo (Kwok). Counsel sees no reason why the many investors in any of the entities should not have the same right of filing under seal if they desire.
- 4) Obviously, different people are different. Some don't care about being public. Some care a great deal. Some are too frightened to claim their money out of fear of disclosure or attention. Filing under seal should be available for those who wish it.
- 5) There is talk at the DOJ website in the form of instructions that the applications for return of funds should be directed to the agency that seized the funds.
- 6) However, the Government has not to Counsel's awareness been clear or comprehensive about what agency has seized the funds, what funds, for which of 80

different organizations. There were “up to” in the original zone of the Government’s suspicion of around 80 institutions. But has made piecemeal mentions of different seizures referred to here and there.

- 7) Therefore, it is not clear to whom an investor would submit an application for relief other than to the U.S. Department of Justice or filing in this Court (even if filing in this Court is delegated to an official like a special master, magistrate, or administrator, which Counsel opposes as prejudicing the outcome in advance).
- 8) Furthermore, the instructions at www.Forfeiture.gov do not seem to be authoritative in a legal sense but merely discussion.
- 9) Therefore, moving Counsel presents a Proposed Order presenting the alternative treatments of filing the confidential data with the Court under seal or presenting it to the U.S. Department of Justice to be treated equivalent to under seal. The Court may wish to direct the recipient of where applications should be submitted as well as authorizing filing under seal. **Again, submission to the Court might not mean personal handling by the District Court Judge but might mean delegation.**
- 10) Counsel will be filing a demand for the return to the investors in HEX of their investments that the U.S. Government took for the purpose of protecting the investors from anyone who would take their money. This has caused some confusion as we are seeing in individual *pro se* concerns being filed. The U.S. Government seized the money of the investors to protect it from being taken. President Ronald Reagan famously quipped: **“I’ve always felt that the nine most terrifying words in the English language are ‘I’m from the Government and I’m here to help.’”**
<https://www.youtube.com/watch?v=xhYJS80MgYA>

- 11) In support of these applications for the return of the investors' money, Counsel will file information about the now over 6,000 HEX investors who are also Counsel's clients.
- 12) This of course involves over 6,000 known and identifiable individuals, not technically a class although it is a large group of investors.
- 13) Some of this information, Counsel will proffer and – once again – invite the DOJ to meet and review under secure conditions and will claim the invitation to the DOJ to review the data as a proffer to be accepted at the Government's election.
- 14) Meanwhile, Counsel also expects the Himalaya Exchange to file its own application for the return *in toto* of the reserve funds seized by the U.S. Government from the Himalaya Exchange.
- 15) Counsel's clients support either remedy and arguing in the alternative urge either approach. If the entirety of HEX's reserve funds were returned in full, the Members (investors) in HEX could then receive their investments from HEX, including those Members who are not Counsel's clients.
- 16) Counsel expects that the reserve funds taken directly from the Exchange are most directly the right of the Exchange on behalf of its Members.
- 17) On the other hand, the Government has hypothesized the unsupported possibility that some of the Members of HEX might not meet with the Government's approval. Therefore, considering the individual members would allow the Government to start to get specific for the first time and actually identify any Member account for which it has any reliable evidence of any concern.
- 18) Therefore, demanding return of individual Members' investments is equally valid but

allows us to disperse the fog and get precise about any reasons for the Government's vague ruminations. Seeing none, the innocent and unimpeachable Members should have their seized investments returned. If the Government will not tell us of any persons or circumstances of individualized concerns, we must conclude that there are none. The law, as in life, does require us to "Speak now or forever hold your peace."

- 19) Reports and data that Counsel hopes HEX will file may further support the applications for refund of investors' money. Counsel's clients will request to rely upon the information presented by HEX as well as their own information. Because part of HEX's business operations is or at least was to maintain the records of Members' participation and investments in the Exchange, HEX's information about the individual Members is equally authoritative as the information of individual members. For example, if one were to prove that she deposited \$5,000 in a bank account, either the depositor could prove that she deposited the money or the bank could prove that it received the \$5,000 from its customer. Either would establish the fact as true.
- 20) The Membership and Member activity records of HEX are of course business records that were at the relevant times (and now if HEX has not been crippled by the U.S. Government) maintained and relied upon in the regular course of business, which are self-authenticating and admissible under the Federal Rules of Evidence.
- 21) It should be remembered that the U.S. Government also seized and shut down HEX's website and on-line operations which was a crucial part of its operations.
- 22) In the government filing docket 233 they indicate the following:

"the government wishes to note that it does not believe the assets that the government has seized and seeks to forfeit

should be transferred to the bankruptcy estate. Rather the government intends to forfeit the criminal proceeds of the Kwok enterprise, which the government has seized, and return those assets to the victims of Kwok's crimes provided it is granted approval from the Department of Justices remission or restoration process, and of dictating an order of forfeiture from this court. To the extent there is a dispute with the trustee, or any third party, concerning forfeiture of seized assets, the time to adjudicate those disputes will arise after the criminal trial."

Background Relevant Law Governing

I. RIGHTS OF VICTIMS

Under the Crime Victim's Reform Act, any redemption process should enable victims to perfect their claims and authenticate under an updated 18 U.S.C. § 983(a)(1)(A)(i) process that complies with 18 U.S. Code § 3771. Section 983 was designed before the emergence of cryptocurrency exchanges and innovations in human rights capital creation systems (bit coin, Himalaya Coin, etc.) this growing gulf under Section 3771 may be trumped by the fact that victims are being forced by DoJ under court supervision to expose their personal information to foreign governments ("doxxing").

II. STATUTORY COMMAND WITHOUT EXCEPTION TO MAKE RESTITUTION TO THESE VICTIMS

In statutory interpretation, a canon of construction is that the specific controls over the general. *see HCSC– Laundry v. United States*, 450 U.S. 1, 6, 101 S.Ct. 836, 67 L.Ed.2d 1 (1981)." *Downing v. Globe Direct LLC*, 682 F.3d 18 (1st Cir. 2012). A statute that precisely fits the scenario evidences the legislatures intent to regulate exactly that situation rather than generic statutes which do not appear to relate to the situation at hand. This contrast is evidence of the legislature's intent in the substance of the specific statute and the need to enact it. A poorly

fitting generic statute or one that is confused as to application must give away to a statute that specifically governs the exact situation being considered.

18 U.S. Code § 3771 - Crime victims' rights requires (*emphases added*):

(a)RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

* * *

(3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.

* * *

(6) *The right to full and timely restitution* as provided in law.

(7) *The right to proceedings free from unreasonable delay.*

* * *

(10) The right to be informed of the rights under this section and the services described in section 503(c) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)) [1] and provided contact information for the Office of the Victims' Rights Ombudsman of the Department of Justice.

(b)RIGHTS AFFORDED.—

(1)IN GENERAL.—

In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). Before making a determination described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The reasons for any decision denying relief under this chapter shall be clearly stated on the record.

* * *

(c)BEST EFFORTS TO ACCORD RIGHTS.—

(1)Government.—

Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime *shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).*

(2)Advice of attorney.—

The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a).

* * *

(d) ENFORCEMENT AND LIMITATIONS.—

(1) Rights.—

The crime victim or the crime victim's lawful representative, and the attorney for the Government may assert the rights described in subsection (a). A person accused of the crime may not obtain any form of relief under this chapter.

(2) Multiple crime victims.—

In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), *the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.*

(3) Motion for relief and writ of mandamus.—

The rights described in subsection (a) shall be asserted in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the crime occurred. The district court shall take up and decide any motion asserting a victim's right forthwith. *If the district court denies the relief sought, the movant may petition the court of appeals for a writ of mandamus. The court of appeals may issue the writ on the order of a single judge* pursuant to circuit rule or the Federal Rules of Appellate Procedure. The court of appeals shall take up and decide such application forthwith within 72 hours after the petition has been filed, unless the litigants, with the approval of the court, have stipulated to a different time period for consideration. In deciding such application, the court of appeals shall apply ordinary standards of appellate review. In no event shall proceedings be stayed or subject to a continuance of more than five days for purposes of enforcing this chapter. If the court of appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion.

* * *

(f) Procedures To Promote Compliance.—

(1) Regulations.— Not later than 1 year after the date of enactment of this chapter, *the Attorney General of the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.*

(2) Contents.— The regulations promulgated under paragraph (1) shall—

(A) designate an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

(B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;

(C) *contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and*

(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.

42 U.S.C. §10607. Services to victims requires that (*emphases added*):

(a) Designation of responsible officials

The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) of this section at each stage of a criminal case.

(b) Identification of victims

At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall-

- (1) identify the victim or victims of a crime;
- (2) inform the victims of their right to receive, on request, the services described in subsection (c) of this section; and
- (3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c) of this section.

(c) Description of services

- (1) A responsible official shall-

* * *

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and ¹ manner in which such relief may be obtained;

* * *

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

* * *

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of-

(A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation; * * *

* * *

(e) Definitions

For the purposes of this section-

(1) the term "responsible official" means a person designated pursuant to subsection (a) of this section to perform the functions of a responsible official under that section; and

(2) the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including-

* * *

III. CONCLUSION

For the reasons set forth above, we respectfully request that the Court authorize the presentation of the individual personal and financial information of investors seeking the return of their funds seized by the U.S. Government under seal or the equivalent if the Court directs applications to be made to the seizing department.

Dated: April 4, 2025

RESPECTFULLY SUBMITTED

/s/ Brad Geyer
Bradford L. Geyer, PHV
NJ 022751991
Suite 141 Route 130 S. 303
Cinnaminson, NJ 08077
Brad@FormerFedsGroup.Com
(856) 607-5708

CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2025, a true and accurate copy of the forgoing was electronically filed and served through the ECF system of the U.S. District Court for the

Southern District of New York.

/s/ Brad Geyer
Bradford L. Geyer, PHV
NJ 022751991
Suite 141 Route 130 S. 303
Cinnaminson, NJ 08077
Brad@FormerFedsGroup.Com
(856) 607-5708